ONUSAL
EL SALVADOR

SAN JOSE AGREEMENT ON HUMAN RIGHTS*

I. RESPECT FOR AND GUARANTEE OF HUMAN RIGHTS

The Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (hereinafter referred to as "the Parties"),

Bearing in mind that the legal system of El Salvador provides for the recognition of human rights and the duty of the State to respect and guarantee such rights;

Considering also that the State has assumed obligations of this nature under the many international conventions to which it is a party;

Bearing in mind that the Frente Farabundo Martí para la Liberación Nacional has the capacity and the will and assumes the commitment to respect the inherent attributes of the human person;

Reiterating the common purpose, expressed in the Geneva Agreement, to guarantee unrestricted respect for human rights in El Salvador;

Further reiterating their willingness, also expressed in the Geneva Agreement, to submit in this matter to verification by the United Nations;

On the understanding that for the purposes of the present political agreement, "human rights" shall mean those rights recognized by the Salvadorian legal system, including treaties to which El Salvador is a party, and by the declarations and principles on human rights and humanitarian law adopted by the United Nations and the Organization of American States;

Have concluded the following agreement in pursuance of the initial objective of the Geneva Agreement:

1. All necessary steps and measures shall be taken immediately to avoid any act or practice which constitutes an attempt upon the life, integrity, security or freedom of the individual. Similarly, all necessary steps and measures shall be taken to eliminate any practice involving enforced disappearances and abductions. Priority shall be given to the investigation of any cases of this kind which may arise and to the identification and punishment of the persons found guilty.

2. The full guarantee of the freedom and the integrity of the person requires that certain immediate measures be taken in order to ensure the following:

a) No one may be arrested for the lawful exercise of his political rights;

b) An arrest may be made only if ordered by the competent authority in writing and in accordance with the law, and the arrest must be carried out by officers who are properly identified as such;

c) Anyone arrested must be informed while the arrest is being made of the reasons for the arrest and must be apprised without delay of the charge or charges against him;

*It is the understanding of the Parties that this Agreement does not exhaust the consideration of the item on human rights and that it is, accordingly, a partial agreement. With the exception of points that are immediately applicable, the Agreement is subject to the package of political agreements to be negotiated for the achievement of the initial objective envisaged in the Geneva Agreement.

d) No one shall be placed under arrest as a means of intimidation. In particular, arrests shall not be made at night, except in the case of individuals caught *in flagrante delicto*;

e) No one in custody shall be held incommunicado. Any person who has been arrested shall have the right to be assisted without delay by legal counsel of his own choosing and the right to communicate freely and privately with such counsel;

f) No one shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

3. In the course of the present negotiations, appropriate legal procedures and timetables shall be determined for the release of individuals who have been imprisoned for political reasons.

4. The fullest possible support shall be given to ensuring the effectiveness of the remedies of *amparo* and *habeas corpus*. To this end, the broadest possible publicity shall be given to this Agreement among the public at large and, in particular, among authorities or officers in charge of detention centres. Anyone who hampers the operation of these remedies or provides false information to the judicial authorities shall be punished.

5. The right of all persons to associate freely with others for ideological, religious, political, economic, labour, social, cultural, sporting or other purposes shall be fully guaranteed. Trade union freedom shall be fully respected.

6. Freedom of expression and of the press, the right of reply and the activities of the press shall be fully guaranteed.

7. Displaced persons and returnees shall be provided with the identity documents required by law and shall be guaranteed freedom of movement. They shall also be guaranteed the freedom to carry on their economic activities and to exercise their political and social rights within the framework of the country's institutions.

8. All persons shall be guaranteed freedom of movement in the areas involved in conflict, and the necessary steps shall be taken to provide the inhabitants of such areas with the identity documents required by law.

9. The Parties recognize the necessity of guaranteeing the effective enjoyment of labour rights. This subject will be considered under the agenda item on economic and social problems.

2. INTERNATIONAL VERIFICATION

10. In accordance with the provisions of the Geneva Agreement and the agenda for the negotiations which was adopted in Caracas, the Parties hereby agree to the terms of reference for the United Nations human rights verification mission (hereinafter referred to as "the Mission"), as set out below.

11. The Mission shall devote special attention to the observance of the rights to life, to the integrity and security of the person, to due process of law, to personal liberty, to freedom of expression and to freedom of association.

In this context, a special effort shall be made to clarify any situation which appears to reveal the systematic practice of human rights violations and, in such cases, to recommend appropriate measures for the elimination of the practice to the Party concerned. The foregoing shall be without prejudice to any powers granted to the Mission to consider individual cases.

12. A Director designated by the Secretary-General of the United Nations shall be in charge of the Mission. The Director shall work in close co-operation with existing human rights organizations and bodies in El Salvador. He shall also be assisted by expert advisers. In addition, the Mission shall include as many verification personnel as may be necessary.

13. The purpose of the Mission shall be to investigate the human rights situation in El Salvador as regards acts committed or situations existing as from the date of its establishment and to take any steps it deems ap-

propriate to promote and defend such rights. Accordingly, it shall perform its functions with a view to promoting respect for human rights and their guarantee in El Salvador and helping to do away with those situations in which such respect and guarantees are not duly observed.

14. The Mission's mandate shall include the following powers:

a) To verify the observance of human rights in El Salvador;

b) To receive communications from any individual, group of individuals or body in El Salvador, containing reports of human rights violations;

c) To visit any place or establishment freely and without prior notice;

d) To hold its meetings freely anywhere in the national territory;

e) To interview freely and privately any individual, group of individuals or members of bodies or institutions;

f) To collect by any means it deems appropriate such information as it considers relevant;

g) To make recommendations to the Parties on the basis of any conclusions it has reached with respect to cases or situations it may have been called upon to consider;

h) To offer its support to the judicial authorities of El Salvador in order to help improve the judicial procedures for the protection of human rights and increase respect for the rules of due process of law;

i) To consult the Attorney-General of the Republic;

j) To plan and carry out an educational and informational campaign on human rights and on the functions of the Mission itself;

k) To use the media to the extent useful for the fulfilment of its mandate;

l) To report regularly to the Secretary-General of the United Nations and through him to the General Assembly.

15. The Parties undertake to give their full support to the Mission. To that end, they pledge:

a) To grant the Mission whatever facilities it may require for the performance of its functions;

b) To ensure the security of the members of the Mission and of such persons as may have provided it with information, testimony or evidence of any kind;

c) To provide, as expeditiously as possible, whatever information may be required by the Mission;

d) To give their earliest consideration to any recommendations made to them by the Mission;

e) Not to hinder the fulfilment of the Mission's mandate.

16. Each of the Parties shall appoint a delegate to serve as liaison with the Mission.

17. Should the Mission receive communications referring to acts or situations which occurred prior to its establishment, it may transmit them, if it deems it appropriate, to the competent authorities.

18. The fact that a case or situation has been considered by the Mission shall not preclude the application thereto of international procedures for the promotion and protection of human rights.

19. Subject to any arrangements which must be made prior to its establishment, the Mission shall take up its duties as of the cessation of the armed conflict. The Mission shall be established initially for one year and may be renewed.

San José, 26 July 1990

For the Government of El Salvador:

(SIGNED)
Oscar Alfredo Santamaría
Colonel Juan A. Martínez Varela
Colonel Mauricio Ernesto Vargas
Abelardo Torres
David Escobar Galindo
Rafael Hernán Contreras

For the Frente Farabundo Martí para la Liberación Nacional:

(SIGNED)
Commander Schafik Handal
Commander Eduardo Sancho
Ana Guadalupe Martínez
Salvador Samayoa
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Marta Valladares
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(SIGNED)
Alvaro de Soto
Representative of the Secretary-General of the United Nations

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